



General Assembly

February Session, 2004

***Raised Bill No. 462***

LCO No. 1895

\* \_\_\_\_\_SB00462ENVJUD030804\_\_\_\_\_\*

Referred to Committee on Environment

Introduced by:  
(ENV)

***AN ACT CONCERNING ENVIRONMENTAL REGULATION AND A  
PRESUMPTION AGAINST UNREASONABLE POLLUTION,  
IMPAIRMENT OR DESTRUCTION OF THE PUBLIC TRUST IN  
NATURAL RESOURCES.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 22a-16 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2004*):

3 The Attorney General, any political subdivision of the state, any  
4 instrumentality or agency of the state or of a political subdivision  
5 thereof, any person, partnership, corporation, association, organization  
6 or other legal entity may maintain an action in the superior court for  
7 the judicial district wherein the defendant is located, resides or  
8 conducts business, except that where the state is the defendant, such  
9 action shall be brought in the judicial district of Hartford, for  
10 declaratory and equitable relief against the state, any political  
11 subdivision thereof, any instrumentality or agency of the state or of a  
12 political subdivision thereof, any person, partnership, corporation,  
13 association, organization or other legal entity, acting alone, or in  
14 combination with others, for the protection of the public trust in the

15 air, water and other natural resources of the state from unreasonable  
 16 pollution, impairment or destruction provided no such action shall be  
 17 maintained against the state for pollution of real property acquired by  
 18 the state under subsection (e) of section 22a-133m, as amended, where  
 19 the spill or discharge which caused the pollution occurred prior to the  
 20 acquisition of the property by the state. A showing that the conduct  
 21 that is the subject of such action complies with a state environmental  
 22 statutory or regulatory scheme that governs such conduct and the  
 23 natural resource in question shall create a presumption that such  
 24 conduct is not unreasonable pollution, impairment or destruction of  
 25 the public trust in such natural resource for purposes of this section.  
 26 Such presumption may be rebutted by a showing that the subject  
 27 statutory or regulatory scheme has become obsolete or is otherwise  
 28 inadequate to protect the public trust in the relevant natural resource.

29 Sec. 2. Section 22a-19 of the general statutes is repealed and the  
 30 following is substituted in lieu thereof (*Effective October 1, 2004*):

31 (a) In any administrative, licensing or other proceeding, and in any  
 32 judicial review thereof made available by law, the Attorney General,  
 33 any political subdivision of the state, any instrumentality or agency of  
 34 the state or of a political subdivision thereof, any person, partnership,  
 35 corporation, association, organization or other legal entity may  
 36 intervene as a party on the filing of a verified pleading asserting that  
 37 the proceeding or action for judicial review involves conduct which  
 38 has, or which is reasonably likely to have, the effect of unreasonably  
 39 polluting, impairing or destroying the public trust in the air, water or  
 40 other natural resources of the state.

41 (b) In any administrative, licensing or other proceeding, the agency  
 42 shall consider the alleged unreasonable pollution, impairment or  
 43 destruction of the public trust in the air, water or other natural  
 44 resources of the state and no conduct shall be authorized or approved  
 45 which does, or is reasonably likely to, have such effect so long as,  
 46 considering all relevant surrounding circumstances and factors, there

47 is a feasible and prudent alternative consistent with the reasonable  
48 requirements of the public health, safety and welfare. A demonstration  
49 that the conduct that is the subject of such administrative, licensing or  
50 other proceeding complies with a state environmental statutory or  
51 regulatory scheme that governs such conduct and the natural resource  
52 in question shall create a presumption that such conduct is not  
53 unreasonable pollution, impairment or destruction of the public trust  
54 in such natural resource for purposes of this section. Such presumption  
55 may be rebutted by a showing that the subject statutory or regulatory  
56 scheme has become obsolete or is otherwise inadequate to protect the  
57 public trust in the relevant natural resource.

This act shall take effect as follows:	
Section 1	<i>October 1, 2004</i>
Sec. 2	<i>October 1, 2004</i>

***ENV******Joint Favorable C/R*****JUD**